



UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of:  
David SMITH  
Application No. 09/769,004  
Filed: January 24, 2001  
For: DESIGN FLOW CHECKER

)  
) **DECISION ON PETITION TO**  
) **WITHDRAW HOLDING OF**  
) **ABANDONMENT UNDER**  
) **37 CFR § 1.181**  
)

This is a decision on the petition, filed on 06 June 2005, under 37 CFR §1.181 to withdraw holding of abandonment of the above-identified application.

This application was held abandoned for failure to timely file a proper reply to the Final Office Action mailed on 29 June 2004. A Notice of Abandonment was mailed on 20 May 2005.

In support of the petition, petitioner asserts that the Final Office Action mailed 29 June 2004 was not received. Petitioner supplies (1) a statement that a search of the file jacket and the docket log of the application to confirm that the Final Office Action was not received; and (2) a copy of the docket log where the Final Office Action would have been entered had it been received and docketed by attorneys of record in the application.

The provided copy of the docket log shows no entry indicating receipt of the Final Office Action mailed on 29 June 2004.

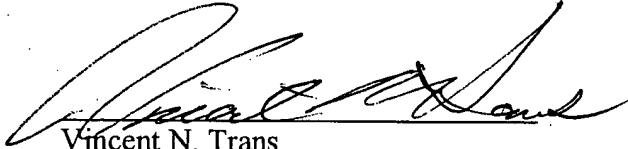
The relevant portion of MPEP § 711.03(c) states:

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioner has met the criteria of set out in MPEP § 711.03(c) for establishing failure to receive the Final Office Action mailed 29 June 2004.

For the above, the petition is **GRANTED**. The abandonment is **WITHDRAWN**.

The Final Office Action has been remailed and attached herewith.

A handwritten signature in black ink, appearing to read 'Vincent N. Trans', is written over a horizontal line.

Vincent N. Trans  
Special Programs Examiner  
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